

MONTANA LEGISLATIVE HISTORY

Chapter 59 ~~19~~ 2005

Bill H 131 S _____ Original bill & history Xc

H. Committee on FISH, WILDLIFE & PARKS

S. Committee on FISH & GAME

Hearing Date(s) 1/11 X c

Hearing Date(s) 3/8 X c

EXEC ACTION 1/13 X c

& EXEC ACTION

_____ c

_____ c

_____ c

_____ c

_____ c

_____ c

Date Out

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

Bill Draft Number: LC0322
Bill Type - Number: HB 131
Short Title: Revise fish and game felony laws
Primary Sponsor: Paul Clark

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 39

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/24/2005			
(H) Signed by Governor	03/24/2005			
(H) Transmitted to Governor	03/17/2005			
(S) Signed by President	03/16/2005			
(H) Signed by Speaker	03/16/2005			
(H) Returned from Enrolling	03/15/2005			
(C) Sent to Printing	03/15/2005			
(H) Sent to Enrolling	03/14/2005			
(S) Returned to House	03/11/2005			
(S) 3rd Reading Concurred	03/11/2005	40	10	
(S) Scheduled for 3rd Reading	03/11/2005			
(S) 2nd Reading Concurred on Voice Vote	03/10/2005	47	2	
(S) Scheduled for 2nd Reading	03/10/2005			
(S) Committee Report--Bill Concurred	03/09/2005			(S) Fish and Game
(S) Committee Executive Action--Bill Concurred	03/09/2005	9	0	(S) Fish and Game
(S) Hearing	03/08/2005			(S) Fish and Game
(S) Referred to Committee	02/21/2005			(S) Fish and Game
(S) First Reading	02/21/2005			
(H) Transmitted to Senate	01/18/2005			
(H) 3rd Reading Passed	01/18/2005	75	22	
(H) Scheduled for 3rd Reading	01/18/2005			
(H) 2nd Reading Passed	01/17/2005	73	27	
(H) Scheduled for 2nd Reading	01/17/2005			
(H) Committee Report--Bill Passed	01/14/2005			(H) Fish, Wildlife and Parks
(H) Committee Executive Action--Bill Passed	01/14/2005	19	1	(H) Fish, Wildlife and Parks
(H) Hearing	01/11/2005			(H) Fish, Wildlife and Parks
(H) Referred to Committee	01/05/2005			(H) Fish, Wildlife and Parks
(C) Introduced Bill Text Available	12/17/2004			

Electronically	
(H) Introduced	12/17/2004
(C) Pre-Introduction Letter Sent	12/14/2004
(C) Draft in Assembly/Executive Director Review	12/14/2004
(C) Draft in Final Drafter Review	12/10/2004
(C) Bill Draft Text Available Electronically	12/10/2004
(C) Draft in Input/Proofing	12/10/2004
(C) Draft to Drafter - Edit Review [CMD]	12/06/2004
(C) Draft in Edit	12/06/2004
(C) Draft in Legal Review	12/06/2004
(C) Draft to Requester for Review	11/10/2004
(C) Draft Request Received	09/02/2004

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Law and Justice Interim Committee	
Drafter	Sternberg	Doug
By Request Of	Department of Justice	
Primary Sponsor	Clark	Paul

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Fish and Wildlife	Simple		FISH
Crimes	Simple		CR

Additional Bill Information

Probable Fiscal Note: No
 Preintroduction Required: Y
 Session Law Ch. Number: 59

DEADLINE

Category: General Bills

Transmittal Date: 03/01/2005

Return (with 2nd house amendments) Date: 04/06/2005

Section Effective Dates

Section(s)	Effective Date	Date Qualified
------------	----------------	----------------

All Sections	01-OCT-05	
--------------	-----------	--

HOUSE BILL NO. 131
INTRODUCED BY P. CLARK
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE LANGUAGE AND PENALTIES REGARDING THE UNLAWFUL POSSESSION, SHIPPING, TRANSPORTATION, SALE, PURCHASE, OR EXCHANGE OF GAME FISH, BIRDS, GAME ANIMALS, AND FUR-BEARING ANIMALS; AMENDING SECTIONS 87-1-102, 87-3-111, 87-3-112, 87-3-115, 87-3-117, AND 87-3-118, MCA; AND REPEALING SECTION 87-3-113, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-1-102, MCA, is amended to read:

"87-1-102. Penalties -- violation of state law. (1) A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) (a) ~~Except as provided in subsection (2)(f), a~~ A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(b) ~~Except as provided in subsection (2)(f), a~~ A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than \$200 or more than \$600 or imprisoned in the county detention center for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.

~~(f) A person convicted of purposely or knowingly taking, killing, possessing, or transporting a trophy animal as described in 87-1-115 or any part of those animals shall be fined an amount not less than \$500 or more than \$3,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 5 years from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(4) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county detention center for not more than 60 days, or both.

(6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (6)(b):

- (i) hunting during a closed season;
- (ii) spotlighting;
- (iii) hunting without a license;
- (iv) unlawful taking of more than double the legal bag limit;
- (v) unlawful possession of more than double the legal bag limit; and
- (vi) waste of game by abandonment in the field.

(b) (i) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection

(6)(a) shall be fined an amount not less than \$2,000 or more than \$5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.

(ii) The department shall notify the offender of the loss of privileges.

(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7)(b):

(i) hunting during a closed season;

(ii) spotlighting;

(iii) hunting without a license; and

(iv) unlawful taking of more than double the legal bag limit.

(b) (i) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection (7)(a) shall be fined an amount not less than \$5,000 or more than \$10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

(ii) The department shall notify the offender of the loss of privileges.

(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same meaning as provided in 45-2-101."

Section 2. Section 87-3-111, MCA, is amended to read:

"87-3-111. Unlawful to buy, sell, possess, or transport fish or game possession, shipping, or transportation of game fish, birds, game animals, or fur-bearing animals -- exceptions -- penalties. (1) It is unlawful for a person to ~~purchase, sell, offer to sell,~~ possess, ship, or transport all or part of any game fish, ~~upland game bird, migratory game bird, game animal, or fur-bearing animal that is protected by the laws of this state that was unlawfully killed, captured, or taken,~~ whether killed, captured, or taken in Montana or outside of Montana, ~~except as specifically permitted by the laws of this state.~~

(2) ~~The provisions of this~~ This section ~~do~~ does not prohibit:

~~(a) the possession or transportation within the state of all or part of any legally taken fish, upland game bird, migratory game bird, game animal, or fur-bearing animal;~~

~~——(b)(a) the sale, purchase, possession, shipping, or transportation of hides, heads, or mounts of lawfully killed, captured, or taken upland game birds, migratory game birds, game fish, birds, game animals, or fur-bearing animals, or game animals,~~ except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in 87-3-110;

~~(c)(b) the possession, shipping, or transportation, sale, or purchase~~ of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

~~(d)(c) the possession, shipping, or transportation, sale, or purchase~~ of the bones of an elk, antelope, moose, or deer that has ~~been lawfully killed or that has died of from~~ natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

~~(e)(d) the donation and sale~~ possession, shipping, or transportation of paddlefish roe as caviar under the provisions of 87-4-601; or

~~(f)(e) the possession, shipping, or transportation, sale, or purchase~~ of captive-reared migratory waterfowl.

(3) It is unlawful for a person to possess, ship, or transport live fish away from the body of water in which the fish were taken, except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted in the laws of this state;

(b) for fish species approved by the commission for use as live bait and subject to any restrictions

imposed by the commission; or

(c) within ~~and along~~ the boundaries of the eastern Montana fishing district, as established by the ~~1994-95~~ commission regulations.

(4) ~~A person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished as provided in 87-1-102:~~ The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the same are found killed, captured, or took the game fish, bird, game animal, or fur-bearing animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in 87-1-111 and 87-1-115. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) (a) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed \$1,000, then the person is subject to the penalties in 87-1-102.

(b) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, a person who is convicted under this section or who forfeits bond or bail after being charged with a violation of this section shall lose all hunting, fishing, and trapping licenses and permits and license privileges for a minimum of 3 years or up to a lifetime revocation from the date of conviction. The department shall notify the person of the loss of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, to the department within 10 days of notification by the department."

Section 3. Section 87-3-112, MCA, is amended to read:

"87-3-112. Possession of ~~unlawfully killed animals~~ and of unlawful use of fishing implements.

(1) ~~The possession of dead bodies or any part thereof of any of the game fish, game or nongame birds, or game or fur-bearing animals defined by the fish and game laws of the state of Montana is prima facie evidence that the person or persons in whose possession the same are found have killed, caught, or taken the same. The possession of a fishing rod and line, spear, gig, or barbed fork on the banks or shores of a stream or lake is~~

prima facie evidence that the person or persons in whose possession ~~the same~~ these implements are found were using the ~~same~~ implements to fish.

(2) ~~It is unlawful to possess, have, hold, purchase, keep in storage, or possess for any other purpose any game fish, game bird, nongame bird, game animal, fur-bearing animal, or parts thereof which were unlawfully killed, captured, or taken. No~~ A person may not unlawfully use any fishing rod and line, fishing lines, spear, gig, or barbed fork."

Section 4. Section 87-3-115, MCA, is amended to read:

"87-3-115. Violation by carriers. ~~No~~ A person or the agent or employee of any common carrier, association, stage, express, railway, or transportation company may not transport or receive for transportation or carriage or sell or offer for sale any of the ~~game animals~~ fish, game or nongame birds, ~~fish~~ game animals, fur-bearing animals, the skins of fur-bearing animals, or parts thereof, except as specifically provided for by 87-3-114. All fish, game or nongame birds, ~~fish~~, game animals, fur-bearing animals, or parts thereof had in possession or ~~which that~~ have been shipped or are being transported in violation of any of the provisions of ~~87-3-113 through 87-3-115 shall~~ 87-3-114 or this section must be seized, confiscated, and disposed of as provided by law."

Section 5. Section 87-3-117, MCA, is amended to read:

"87-3-117. Definitions of lawfully killed, captured, or taken wildlife and unlawfully killed, captured, or taken wildlife. As used in 87-3-111, 87-3-118, and this section, the following definitions apply:

(1) "Lawfully killed, captured, or taken wildlife" means ~~wildlife, as defined in 87-5-102, that is killed, captured, or taken or possessed by hunting, fishing, or trapping in conformance with this title and~~ the regulations adopted by the commission, and the rules adopted by the department under authority of this title.

(2) "Unlawfully killed, captured, or taken wildlife" means ~~wildlife that is not lawfully~~ killed, captured, or taken wildlife."

Section 6. Section 87-3-118, MCA, is amended to read:

"87-3-118. Felony Unlawful sale or possession of wildlife game fish, birds, game animals, or fur-bearing animals -- penalty. (1) A person commits the offense of unlawful sale of unlawfully taken wildlife a game fish, bird, game animal, or fur-bearing animal if the person purposely or knowingly:

(a) ~~sells, barter, purchases, or exchanges unlawfully taken wildlife for anything of value; or~~

~~—— (b) offers to sell, barter, purchase, or exchange unlawfully taken wildlife for anything of value all or part of any game fish, bird, game animal, or fur-bearing animal.~~

~~(2) A person commits the offense of possession of unlawfully taken wildlife having a value of more than \$1,000 if the person purposely or knowingly has actual or constructive possession of or transports or causes to be transported unlawfully taken wildlife having a value of more than \$1,000. The value of the unlawfully taken wildlife game fish, bird, game animal, or fur-bearing animal must be determined from the ~~schedule~~ schedules of restitution values set out in 87-1-111 and 87-1-115. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.~~

~~(3) (a) A person commits the offense of unlawful sale or possession of wildlife if the person purposely or knowingly:~~

~~—— (i) sells, barter, purchases, or exchanges wildlife for anything of value;~~

~~—— (ii) attempts to sell, barter, purchase, or exchange wildlife for anything of value;~~

~~—— (iii) transports, causes to be transported, or is in the process of transporting out of state wildlife for purposes of sale, barter, purchase, or exchange for anything of value.~~

~~—— (b) For the purposes of this subsection (3), "wildlife" includes the edible meat, internal organs, tissue, fluids, or sex organs of wildlife having a value of more than \$1,000 or edible meat of wildlife in excess of 150 pounds, except meat allowed to be sold under the provisions of 71-3-1505.~~

~~—— (c) For purposes of determining the total pounds of edible meat of wildlife, any nonwildlife meat or ingredients mixed with the meat of wildlife must be included in the total. This section does not prohibit:~~

~~(a) the sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in 87-3-110;~~

~~(b) the sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;~~

~~(c) the sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;~~

~~(d) the donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or~~

(e) the sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) (a) For purposes of this section, the value of all wildlife actually or constructively possessed, transported, sold, bartered, bought, or exchanged for anything of value within a 45-day period must be added together to determine whether the value of the wildlife is greater than \$1,000. If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed \$1,000, then the person shall be fined an amount not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) In addition to the penalties in subsection (4)(a), the person, upon conviction or forfeiture of bond or bail, may lose all hunting, fishing, and trapping licenses and permits and license privileges in this state for a period set by the court. The department shall notify the person of any loss of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification by the department.

(5) (a) A person who violates this section is guilty of a felony and upon conviction shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, a person convicted under this section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permits and license privileges for a minimum of 3 years or up to a maximum of a lifetime revocation from the date of conviction. If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 5 years, or both.

(b) In addition to the penalties in subsection (5)(a), the person, upon conviction or forfeiture of bond or bail, shall lose all hunting, fishing, and trapping licenses and permits and license privileges in this state for a minimum of 3 years or up to a lifetime revocation from the date of conviction. The department shall notify the person of the loss of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification by the department."

NEW SECTION. Section 7. Repealer. Section 87-3-113, MCA, is repealed.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN GEORGE GOLIE**, on January 11, 2005 at
3:00 P.M., in Room 152 Capitol.

00:00:01

ROLL CALL

Members Present:

Rep. George Golie, Chairman (D)
Rep. Paul Clark, Vice Chairman (D)
Rep. Scott Sales, Vice Chairman (R)
Rep. John Balyeat (R)
Rep. Arlene Becker (D)
Rep. Dee L. Brown (R)
Rep. Jill Cohenour (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. George G. Groesbeck (D)
Rep. Robin Hamilton (D)
Rep. Harry Klock (R)
Rep. Roger Koopman (R)
Rep. Mike Milburn (R)
Rep. Art Noonan (D)
Rep. Don Roberts (R)
Rep. John Ward (R)
Rep. Bill Warden (R)

Members Excused: Rep. Larry Jent (D)

Members Absent: None.

Staff Present: Debra Polhemus, Committee Secretary
Doug Sternberg, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

HOUSE COMMITTEE ON FISH, WILDLIFE AND PARKS

January 11, 2005

PAGE 2 of 5

Committee Business Summary:

Hearing & Date Posted: HB 50, 1/7/2005; HB 131, 1/7/2005;
HB 174, 1/7/2005

Executive Action:

HEARING ON HB 50

Opening Statement by Sponsor:

00:02:18

REP. DON ROBERTS (R), HD 56, opened the hearing on HB 50, Department of Fish, Wildlife & Parks authority to remove species from state endangered species list.

Proponents' Testimony:

00:04:29 Christian A. Smith, Chief of Staff, Montana Fish
Wildlife & Parks

EXHIBIT(fih07a01)

00:06:54 Janet Ellis, Executive Director, Montana Audubon

00:07:32 Nancy Schlepp, Montana Farm Bureau

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

00:08:14 **REP. BROWN**

Closing by Sponsor:

00:08:42 **REP. DON ROBERTS (R), HD 56**, closed the hearing on
HB 50.

HEARING ON HB 131

Opening Statement by Sponsor:

00:09:05

REP. PAUL CLARK (D), HD 13, opened the hearing on HB 131, Revise fish and game felony laws.

EXHIBIT(fih07a02)

EXHIBIT(fih07a03)

Proponents' Testimony:

00:17:29 John Connor, Chief Criminal Counsel, Department of
Justice

00:18:36 Barbara Harris, Assistant Attorney General,
Prosecution Services Bureau, Department of Justice

00:21:44 Jim Kropp, Chief, Department of Fish Wildlife &
Parks, Enforcement Division

EXHIBIT(fih07a04)

00:22:51 Nathan Birkeland, Montana Wildlife Federation
00:23:14 Bob Gilbert, Executive Director, Walleye's
Unlimited of Montana

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

00:25:38 REP. ROBERTS
00:27:45 CHAIRMAN GOLIE

Closing by Sponsor:

00:31:47 REP. PAUL CLARK (D), HD 13, closed the hearing on
HB 131.

HEARING ON HB 174

Opening Statement by Sponsor:

00:31:57
REP. JOHN WITT (R), HD 28, opened the hearing on HB 174, Revise
private pond licensing laws.
EXHIBIT(fih07a05)

Proponents' Testimony:

00:36:13 Christian A. Smith, Chief of Staff, Montana Fish,
Wildlife & Parks
EXHIBIT(fih07a06)
00:40:26 Robin Cunningham, Fishing Outfitters of Montana
00:41:05 Mark Aagenes, Conservation Specialist, Trout
Unlimited
00:41:32 Janet Ellis, Executive Director, Montana Audubon

Opponents' Testimony:

EXHIBIT(fih07a07)
EXHIBIT(fih07a08)

Informational Testimony: None.

Questions from Committee Members and Responses:

00:42:15 REP. GOLIE
00:44:46 REP. WARDEN
00:48:09 REP. BROWN
00:51:03 REP. BECKER
00:53:33 REP. KOOPMAN
00:59:35 DOUG STERNBERG, STAFF
01:01:44 REP. MILBURN
01:05:25 CHAIRMAN GOLIE

DEPARTMENT OF JUSTICE
HB 131: Clarifying FWP Sale & Possession Statutes

Background

The purpose of the statutory changes proposed in HB 131 is to clarify muddled language regarding the **unlawful possession** and **unlawful sale** of game animals, game fish, birds or fur-bearing animals (both misdemeanor and felony). Clear statutory language benefits everyone attempting to apply and interpret Montana's law.

Specifics of HB 131

The amendment to Section 87-1-102 would simply delete a duplicative penalty for unlawful possession. The benefit of this proposed legislation lies mostly in the changes to sections 87-3-111, 112, 117, and 118. Much of the old language has been replaced with more concise words that are already defined in the same chapter (Title 87, Chapter 3). The applicable penalties for misdemeanor possession and unlawful fishing implements would remain in 87-3-102. The duplicate section of 87-3-113 has been taken out. Nothing of substance has been added.

		Existing	Proposed
Possession:	Misdemeanor	87-3-111	87-3-111
		87-3-112	
		87-1-102(2)(f)	
	Felony	87-3-118	87-3-111
Sale:	Misdemeanor	87-3-111	87-3-118
	Felony	87-3-118	87-3-118
Shipping/transportation:		87-3-111	87-3-111
		87-3-113	
Unlawful fishing implements:		87-3-112	87-3-112

Legislative services drafters require that statutes appear in a bill in numerical order. The order of statutory changes listed in HB 131 is the result of the need to eliminate the duplicative sentence found in the general penalty section of Title 87: 87-1-102. The remaining sections (87-3-111, 112, 115, 117, and 118) were all left in order and the resulting proposed changes were made to clarify and keep any portion of those statutes that could be salvaged.

HB 131 map

The bill will clarify the code placement of criminal penalties for misdemeanor and felony unlawful possession and unlawful sale of game animals, game birds, and fur-bearing animals. The penalties have been scattered in several sections, and HB 131 will place the penalties for "unlawful possession, shipping and transportation", and "unlawful sale" in their own separate sections, which will clean up the language in the code and make the penalties easier for sportsmen, wardens, and judges to find and apply.

Section 1 is the general misdemeanor penalty statute for violations of most fish and game laws. The language of subsection (2)(f), beginning on page 2 line 25, is actually a duplicative reference to the "possession" penalties, and that language is no longer necessary, because...

...**Section 2** combines all of the "unlawful possession, shipping and transportation" penalties and exemptions in one section. Misdemeanor possession, shipping and transportation penalties were previously covered in 87-1-102 (2)(f) (which we just deleted in section 1), and in 87-3-111 (section 2), 87-3-112 (section 3), and 87-3-113 (which we repeal in section 7). Felony possession penalties used to be in 87-3-118 (section 6, page 9, line 22). So what HB 131 does is combine all of those penalties in a single section-- 87-3-111 (section 2). Possession penalties are based on the aggregate value of animals possessed, using the restitution schedule in two other sections which are not in this bill and is not a change from current law. The misdemeanor possession penalty is in (6)(a), so if the value of the animals in possession does not exceed \$1,000 the general misdemeanor penalty in section 1 will apply. The felony possession penalty (more than \$1,000 value) is now moved to (6)(b) from the old section 6, page 9, line 22.

Section 3 takes out old possession language and puts it in section 2(4) with the other possession stuff. All that's left of section 3 is the unlawful fishing implement law. A violation of section 3 will remain a general misdemeanor penalty governed by section 1 (as it is now).

Section 4 does nothing but correct an internal reference on page 7, line 21, which was necessitated by the repealer (section 7).

Section 5 cleans up the definitions that are used in sections 2, 5, and 6.

Section 6 combines all the "unlawful sale" penalties and exemptions in one section--87-3-118, (section 6). The misdemeanor sale penalties used to be covered by the language in section 2 (see page 5, line 11), and are now in section 6(4), again reflecting the general misdemeanor penalty in section 1. The felony sale penalties are now in section 6(5)(a) and (5)(b), which is essentially a rewording of the old (5) for consistency.

Section 7 repeals 87-3-113, which is present law covering the removal of illegally taken animals or animal parts from the state. The section is no longer necessary because that conduct is now covered in section 2.

In summary, there are no substantive changes or any revisions of existing penalties in HB 131, but it will make the code more usable for enforcement purposes and enhance public awareness.

EXHIBIT

4

DATE 1.11.05

HB 131

House Bill 131

January 11, 2005

Presented by Jim Kropp

House Fish, Wildlife and Parks Committee

Mr. Chairman and committee members, I am Jim Kropp, Chief of Law Enforcement for Montana Department of Fish, Wildlife & Parks (FWP).

FWP enforces the provisions of Title 87 that include the statutory revisions proposed in this bill. We have worked closely with the Attorney General's office on this legislation in order to establish the clarifying language regarding the unlawful possession and unlawful sale of game animals listed before you.

This bill does not stipulate substantive changes in current statutes. The sole intent of this legislation is to replace or reorganize old language found in Title 87, in an effort to ensure a more clear understanding and consistent application of these sections. The changes listed include deleting duplicative verbiage and restructuring the codes in a more logical order.

The unlawful possession and unlawful sale statutes are extremely important laws for FWP and are necessary to help protect Montana's fish and wildlife resources for existing and future generations.

I urge your support of HB 131.

HOUSE OF REPRESENTATIVES

FISH, WILDLIFE & PARKS COMMITTEE

ROLL CALL

DATE: 1.11.05

NAME	PRESENT	ABSENT	EXCUSED
Chair, Rep. George Golie	✓		
Vice Chair, Rep. Paul Clark	✓		
Vice Chair, Rep. Scott Sales	✓		
Rep. John Balyeat	✓		
Rep. Arlene Becker	✓		
Rep. Dee Brown	✓		
Rep. Jill Cohenour	✓		
Rep. Robyn Driscoll	✓		
Rep. George Everett	✓		
Rep. Tom Facey	✓		
Rep. George Groesbeck	✓		
Rep. Robin Hamilton	✓		
Rep. Larry Jent			✓
Rep. Harry Klock	✓		
Rep. Roger Koopman	✓		
Rep. Mike Milburn	✓		
Rep. Art Noonan	✓		
Rep. Don Roberts	✓		
Rep. John Ward	✓		
Rep. Bill Warden	✓		

FISH, WILDLIFE, PARKS COMMITTEE

Bill No. 50-131-174 Sponsor(s) D. ROBERTS

PLEASE PRINT

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

/s/NatResVisitorReg.sample2003

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN GEORGE GOLIE**, on January 13, 2005 at
3:00 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. George Golie, Chairman (D)
Rep. Paul Clark, Vice Chairman (D)
Rep. Scott Sales, Vice Chairman (R)
Rep. John Balyeat (R)
Rep. Arlene Becker (D)
Rep. Dee L. Brown (R)
Rep. Jill Cohenour (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. George G. Groesbeck (D)
Rep. Robin Hamilton (D)
Rep. Larry Jent (D)
Rep. Harry Klock (R)
Rep. Roger Koopman (R)
Rep. Mike Milburn (R)
Rep. Art Noonan (D)
Rep. Don Roberts (R)
Rep. John Ward (R)
Rep. Bill Warden (R)

Members Excused: None.

Members Absent: None.

Staff Present: Debra Polhemus, Committee Secretary
Doug Sternberg, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

EXECUTIVE ACTION ON HB 131

01:28:47 Motion/Vote: REP. CLARK moved that HB 131 DO PASS. Motion carried by voice vote with REP. BROWN voting no.

EXECUTIVE ACTION ON HB 174

01:30:10 Motion: REP. FACEY moved that HB 174 DO PASS.

01:31:06 Motion: REP. FACEY moved that HB 174 BE AMENDED.

Discussion:

01:34:10 REP. BECKER
01:35:39 REP. NOONAN
01:36:44 REP. BROWN
01:37:42 REP. KLOCK
01:38:07 REP. FACEY
01:39:02 REP. COHENOUR

01:39:45 Vote: Motion carried 17-3 by roll call vote with REPS. BECKER, GROESBECK, and NOONAN voting no.

01:40:43 Motion: REP. KOOPMAN moved that HB 174 BE AMENDED.

EXHIBIT(fih09a10)

Discussion:

01:44:30 REP. KOOPMAN
01:50:07 CHAIRMAN GOLIE

01:51:25 Without objection, the Committee agreed to hold HB 174 in committee until the Amendments are revised.

EXECUTIVE ACTION ON HB 82

01:52:52 Motion/Vote: REP. BROWN moved that HB 82 DO PASS. Motion passed unanimously by voice vote.

01:53:17 By unanimous decision of the committee, HB 82 was placed on the Consent Calendar.

HOUSE OF REPRESENTATIVES
FISH, WILDLIFE & PARKS COMMITTEE
ROLL CALL

DATE: 1.13.05

NAME	PRESENT	ABSENT	EXCUSED
Chair, Rep. George Golie	✓		
Vice Chair, Rep. Paul Clark	✓		
Vice Chair, Rep. Scott Sales	✓		
Rep. John Balyeat	✓		
Rep. Arlene Becker	✓		
Rep. Dee Brown	✓		
Rep. Jill Cohenour	✓		
Rep. Robyn Driscoll	✓		
Rep. George Everett	✓		
Rep. Tom Facey	✓		
Rep. George Groesbeck	✓		
Rep. Robin Hamilton	✓		
Rep. Larry Jent	✓		
Rep. Harry Klock	✓		
Rep. Roger Koopman	✓		
Rep. Mike Milburn	✓		
Rep. Art Noonan	✓		
Rep. Don Roberts	✓		
Rep. John Ward	✓		
Rep. Bill Warden	✓		



HOUSE STANDING COMMITTEE REPORT

January 17, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Fish, Wildlife and Parks** recommend that **House Bill 131** (first reading copy -- white) **do pass**.

Signed: *Rep George Golie*
Representative George Golie, Chair

- END -

Committee Vote:
Yes 19, No 1.

121304SC.hkh

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN JOSEPH (JOE) TROPILA**, on March 8,
2005 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Joseph (Joe) Tropila, Chairman (D)
Sen. Keith Bales (R)
Sen. Joe Balyeat (R)
Sen. Gregory D. Barkus (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Lane L. Larson (D)
Sen. Don Ryan (D)
Sen. Bill Tash (R)

Members Excused: None.

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Chris Lohse, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 208, 3/3/2005; HB 242, 3/3/2005; HB 131, 3/3/2005; HB 269, 3/3/2005; HB 298, 3/3/2005
Executive Action:	HB 298, HB 131, HB 242, HB 208, HB 79, SB 190

Questions from Committee Members and Responses: None.

00:20:14

Closing by Sponsor:

00:20:56

HEARING ON HB 131

Opening Statement by Sponsor:

REP. PAUL CLARK (D), HD 13, opened the hearing on HB 131, Revise fish and game felony laws.

EXHIBIT(fis51a04)

EXHIBIT(fis51a05)

Proponents' Testimony:

00:24:35 Mr. John Connor, Chief Legal Counsel, Attorney General's Office

00:25:44 Ms. Barb Harris, Assistant Attorney General

00:27:14 Mr. Jim Kropp, Law Enforcement Chief, Fish, Wildlife and Parks

EXHIBIT(fis51a06)

Opponents' Testimony: None.

Informational Testimony: None.

00:29:07

Questions from Committee Members and Responses:

00:29:47

Closing by Sponsor:

00:31:56

HEARING ON HB 269

Opening Statement by Sponsor:

REP. PAUL CLARK (D), HD 13, opened the hearing on HB 269, Clarify recreational access to public waters upon road abandonment.

Proponents' Testimony:

00:37:32 Mr. Stan Frasier, Helena Hunters and Anglers Association

01:48:15

EXECUTIVE ACTION ON HB 131

Motion: SEN. GALLUS moved that HB 131 BE CONCURRED IN.

Discussion:

Vote: Motion carried unanimously by voice vote.

01:48:47

EXECUTIVE ACTION ON HB 242

Motion/Vote: SEN. RYAN moved that HB 242 BE CONCURRED IN. Motion carried unanimously by voice vote.

01:49:23

EXECUTIVE ACTION ON HB 208

Motion: SEN. GALLUS moved that HB 208 BE CONCURRED IN.

Discussion:

Motion: SEN. BALES moved that HB 208 BE AMENDED TO ADD A \$20,000 LIMIT.

Discussion:

Mr. Jeff Hagener, Director, Fish, Wildlife and Parks

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that HB 208 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote.

01:53:06

EXECUTIVE ACTION ON HB 79

Motion: SEN. GALLUS moved that HB 79 BE CONCURRED IN.

Discussion:

Mr. Jeff Hagener, Director, Fish, Wildlife and Parks

Mr. Bob Lane, Chief Legal Counsel, Fish, Wildlife and Parks

Vote: Motion carried 6-3 by voice vote with SEN. BALES, SEN. BARKUS, and SEN. TASH voting no.

FISH AND GAME

3/8/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOE TROPILA (D), CHAIRMAN	X		
SEN. DON RYAN (D), VICE CHAIRMAN	X		
SEN. KEITH BALES (R)	X		
SEN. JOE BALLYEAT (R)	X		
SEN. GREGORY BARKUS (R)	X		
SEN. STEVE GALLUS (D)	X		
SEN. KEN HANSEN (D)	X		
SEN. LANE LARSON (D)	X		
SEN. BILL TASH (R)	X		
CHRIS LOHSE, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		



SENATE STANDING COMMITTEE REPORT

March 9, 2005

Page 1 of 1

Mr. President:

We, your committee on **Fish and Game** recommend that **House Bill 131** (third reading copy -- blue) be **concurred in**.

Signed: _____

Senator Joseph (Joe) Tropila, Chair

To be carried by Senator Lane Larson

- END -

Committee Vote:
Yes 9, No 0.

520919SC.ssc

Handwritten initials, possibly "KL", in the bottom right corner.

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

FISH AND GAME

DATE _____ BILLS BEING HEARD TODAY HB 131, HB 208,
HB 242, HB 269, HB 298

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Nancy Schumey	782-4560	Stream Access C. 12.	HB 269	✓	
OK " "	" "	" "	HB 298	✓	
Lefay G. Melnyk	723-5996	P.L.A.R.I. Skyline Apartments	269/298	✓	
Vance Fischer	474-2761	Skyline Sp. Tracer	269-298	✓	
LARRY THOMAS	563-7992	RNR SPORTSMAN	269-298	✓	
DAVE VAN TIGHAM	452-8249	R.E.S.A. SPORTSMAN ASSN GREAT FALLS	269/298	✓	
Charles M Hedrick	453-2500	R.C.S.M. - Great Falls	269/298	✓	
Dennis Cates	439-7948	Self Trout Unlimited	HB 269	✓	
John Connor	4-2026	DOT / A.C.	HB 131	✓	
Camden Wild	4-5886	DOJ	HB 269	Informal	Personal
Ken Kopp	4-5657	FWP	HB 131	✓	
Derek Goldman	443-3949	Mt. Chap. Amer. Fish. Society	HB 298	✓	
Robert Throssell	459-6865	MT Wildlife Federation	HB 208	✓	
RODIN CUNNINGHAM	763 5236	FIGHTING OUTLETTERS ASSN OF MONTANA	HB 269	✓	
Gary Macdonald	653-6247	Roosevelt Co.	HB 269		X
John Shumko	653-6249	Roosevelt Co	HB 269		X
John Wilson	449-9933	NAT Trout Unlimited	HB 269	✓	
John Wilson	449-9933	NAT Trout Unlimited	HB 298	✓	
John Youngberg	570-4103	MT Farm Bureau	HB 208	✓	
Dwight Easton	240-5010	Self	HB 269	✓	
Stan Frosier	439-2705	Helena Hunters	HB 269	X	
DAVE VAN TIGHAM	452-8249	Russell County Sportsman Assn	HB 242	✓	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

JOHN F. BODGREEN 453-4273 PUBLIC COUNTRY ASSOC. ~~HB 208~~ ✓
SPORTSMEN'S ASSOC. ~~HB 298~~ ✓
ALL ~~HB 242~~ ✓
ABOUT ~~HB 131~~ ✓
Mike Murphy 235-4555 MWRA ~~HB 298~~ ✓